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Attorney for Plaintiffs Jana Forsythe and Forsythe Enterprises

6
7 **UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF NEVADA**

9
10 Forsythe et al,

11 *Plaintiffs*

12
13 v.

14 Reno-Sparks Indian Colony et al,

15 *Defendants*
16
17

Case Number
2:16-CV-01867-GMN-VCF

**STIPULATED JOINT MOTION
FOR STAY OF DISCOVERY**

**(Filed Concurrently with ~~[Proposed]~~
Order)**

18
19 Jana Forsythe and Forsythe Enterprises, Inc. (collectively, “Plaintiffs”) and Reno-
20 Sparks Indian Colony, Arlan Melendez, Steve Moran, Steve Stout, and Vicky Oldenburg
21 (collectively, “RSIC Defendants”), and Wood-Rodgers, Inc. and Mark Cendagorta (collectively,
22 “WRI Defendants”) for the reasons below, jointly submit this motion requesting stay of
23 discovery and Rule 16 and Rule 26 obligations during the pendency of Defendants’ motions to
24 dismiss.

25 By this action, Plaintiffs allege Defendants committed acts under color of law that
26 deprived Plaintiffs of rights secured under the Constitution and laws of the United States. The
27

1 RSIC Defendants filed a motion to dismiss [ECF No. 17] challenging the Court's subject matter
 2 jurisdiction under Fed. R. Civ. P. 12(b)(1) and (6), arguing they are protected by tribal sovereign
 3 immunity and that they did not act under color of state law. Plaintiffs responded to the RSIC
 4 Defendants' motion [ECF No. 24]. The WRI Defendants filed a motion to dismiss [ECF No.
 5 19] also challenging the Court's subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1) and
 6 (6), arguing they are protected by tribal sovereign immunity and that they did not act under
 7 color of state law. Plaintiffs responded to the WRI Defendants' motion [ECF No. 25].

8 On November 14, 2016, the Court directed the parties to confer and then file on or
 9 before December 29, 2016, their Scheduling Order/Discovery Plan. At this time, the RSIC and
 10 WRI Defendants believe discovery should be stayed during the pendency of their challenges to
 11 the Court's subject matter jurisdiction. While Plaintiffs will oppose those challenges, because
 12 the motions deal strictly with the allegations of the amended complaint, and in an effort to
 13 maintain an orderly, efficient and less costly resolution to this dispute, the parties have agreed,
 14 absent court order or further agreement of the parties, to stay discovery until such time as the
 15 Court rules on the two pending motions.

16 The parties hereby stipulate and agree, subject to the approval of the Court, that:

17 1. All discovery in this action shall be stayed through the 10th day after the Court
 18 enters an Order resolving the pending motions to dismiss in the related action of Forsythe et al
 19 v. Reno Sparks Indian Colony et al, No. 2:16-CV-01867-GMN-VCF ("*Forsythe*") unless
 20 Plaintiffs are granted leave to file an amended complaint, in which case discovery shall be stayed
 21 through the 10th day after the amended complaint is filed;

22 2. Notwithstanding the above, this stay of discovery is subject to jurisdictional
 23 discovery if any such discovery is ordered by the Court to resolve the pending motions;

24 3. Notwithstanding the above, this stay of discovery shall expire if there has been
 25 no ruling on the pending motions to dismiss in the Forsythe action by April 30, 2017;

26 4. No party shall serve requests for discovery until the stay has expired;

27 5. The parties shall not be required to serve initial disclosures, pursuant to Federal

1 Rule of Civil Procedure 26(a), until the stay of discovery has expired;

2 6. This Stipulation is made without prejudice to any party's right to move to extend
3 the stay of discovery;

4 7. The parties stipulate and request that the 12/29/16 date presently set for the
5 Discovery Plan/Scheduling Order be vacated, and the parties further agree and stipulate that
6 they will confer and propose to the Court a new date for the Discovery Plan/Scheduling Order
7 and associated discovery after the Court resolves the pending motions to dismiss in the related
8 Forsythe action.

9 8. This Stipulation applies to this proceeding only.

10 For these reasons, the Parties jointly request that the Court stay discovery and Rule 16
11 and Rule 26 obligations until the Court rules on the two pending motions to dismiss.

12 I, Daniel Allum, file this Stipulated Joint Motion for Stay of Discovery and its
13 (Proposed) Order Staying Discovery. The Defendants' counsel has authorized the undersigned
14 to sign this stipulate joint motion on their behalf and to so advise the Court.

15 Respectfully submitted,

16 DATED: December 13, 2016,

17
18 By: /s/ Daniel Allum
19 Daniel Allum, (SBN 9744)
20 Law Office of Daniel Allum PLLC
21 Attorney for Plaintiffs
22 *Jana Forsythe and*
23 *Forsythe Enterprises, Inc.*
24
25
26
27

1 By: /s/ Daniel T. Hayward
2 Daniel T. Hayward, (SBN 5986)
3 Joshua M. Halen, (SBN 13885)
4 Laxalt & Nomura Ltd.
5 Attorneys for Defendants
6 *Reno-Sparks Indian Colony,*
7 *Steve Stout, Vicky Oldenburg,*
8 *Steve Moran and Arlan Melendez*

9 By: /s/ Nathan J. Aman
10 Nathan J. Aman, (SBN 8354)
11 Jeremy B. Clark, (SBN 13849)
12 Fahrendorf, Vilorio, Oliphant & Oster LLP
13 Attorneys for Defendants
14 *Wood-Rodgers, Inc. and*
15 *Mark Cendagorta*

CERTIFICATE OF SERVICE

I certify that service of the foregoing STIPULATED JOINT MOTION REQUESTING STAY OF DISCOVERY and (PROPOSED) ORDER was made through the Court's CM/ECF system, which will automatically e-serve all case participants in the CM/ECF filing and service system, on December 13, 2016.

By: /s/ Daniel Allum
Daniel Allum, (SBN 9744)
Law Office of Daniel Allum PLLC
Attorney for Plaintiffs
Jana Forsythe and
Forsythe Enterprises, Inc.

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11 Forsythe et al,

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~~(PROPOSED)~~ **ORDER GRANTING
JOINT MOTION REQUESTING
STAY OF DISCOVERY**

18
19 Plaintiffs Jana Forsythe and Forsythe Enterprises, Inc. and Defendants Reno-Sparks
20 Indian Colony, Arlan Melendez, Steve Moran, Steve Stout, Vicky Oldenburg, Wood-Rodgers,
21 Inc., and Mark Cendagorta, by and through their respective counsel, filed a stipulated joint
22 motion requesting a stay of discovery until such time as the Court rules on Defendants' motions
23 to dismiss (ECF No. 17 and ECF No. 19). Defendants' motions raise a challenge to this Court's
24 subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1) and (6), and as such, discovery is not
25 necessary for its resolution, unless the Court orders limited jurisdictional discovery. For this
26 reason, and in the interests of maintaining an orderly, efficient, and less costly resolution to this
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1 dispute, the Court hereby GRANTS the stipulated joint motion. All discovery is stayed through
2 the 10th day after the Court enters an Order resolving Defendants' pending motion to dismiss.

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4 IT IS SO ORDERED:

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7 UNITED STATES MAGISTRATE JUDGE

8 DATED: December 14, 2016
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IT IS HEREBY ORDERED that a status hearing
is scheduled for 10:00 AM, May 23, 2017, in
Courtroom 3D.